UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1999/SR.30
21 September 1999

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND
PROTECTION OF HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 30th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 24 August 1999, at 6 p.m.

Chairman: Mr. HATANO

CONTENTS

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN OR MAY BE CONCERNED:

(a) REVIEW OF DEVELOPMENTS CONCERNING RECOMMENDATIONS AND DECISIONS RELATING, INTER ALIA, TO:

(i) PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS;

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.99-15453 (E)

CONTENTS (continued)

(ii) ENCOURAGEMENT OF UNIVERSAL ACCEPTANCE OF HUMAN RIGHTS INSTRUMENTS AND OBSERVANCE OF THE HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS BY STATES WHICH ARE NOT PARTIES TO UNITED NATIONS HUMAN RIGHTS CONVENTIONS

(b) REVIEW OF ISSUES NOT PREVIOUSLY THE SUBJECT OF STUDIES BUT WHICH THE SUB-COMMISSION HAD DECIDED TO EXAMINE:

(i) IMPLICATIONS OF HUMANITARIAN ACTIVITIES FOR THE ENJOYMENT OF HUMAN RIGHTS;

(ii) TERRORISM AND HUMAN RIGHTS

(c) HUMAN RIGHTS AND DISABILITY

(d) OTHER NEW DEVELOPMENTS:

(i) ADVERSE CONSEQUENCES OF THE TRANSFER OF ARMS AND ILLICIT TRAFFICKING IN ARMS ON THE ENJOYMENT OF HUMAN RIGHTS;

(ii) ARBITRARY DEPRIVATION OF NATIONALITY (continued)

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (continued)

The meeting was called to order at 6.05 p.m.

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN OR MAY BE CONCERNED

(a) REVIEW OF DEVELOPMENTS CONCERNING RECOMMENDATIONS AND DECISIONS RELATING, INTER ALIA, TO:

(i) PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS;

(ii) ENCOURAGEMENT OF UNIVERSAL ACCEPTANCE OF HUMAN RIGHTS INSTRUMENTS AND OBSERVANCE OF THE HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS BY STATES WHICH ARE NOT PARTIES TO UNITED NATIONS HUMAN RIGHTS CONVENTIONS

(b) REVIEW OF ISSUES NOT PREVIOUSLY THE SUBJECT OF STUDIES BUT WHICH THE SUB-COMMISSION HAD DECIDED TO EXAMINE:

(i) IMPLICATIONS OF HUMANITARIAN ACTIVITIES FOR THE ENJOYMENT OF HUMAN RIGHTS;

(ii) TERRORISM AND HUMAN RIGHTS

(c) HUMAN RIGHTS AND DISABILITY

(d) OTHER NEW DEVELOPMENTS:

(i) ADVERSE CONSEQUENCES OF THE TRANSFER OF ARMS AND ILLICIT TRAFFICKING IN ARMS ON THE ENJOYMENT OF HUMAN RIGHTS;

(ii) ARBITRARY DEPRIVATION OF NATIONALITY

(agenda item 12) (continued) (E/CN.4/Sub.2/1999/23, 24, 26, 27, 28 and Corr.1, 29, 32, 34, 38 and 39; E/CN.4/Sub.2/1999/NGO/5)

1. Ms. OLIVIER (European Union of Public Relations) said that terrorism was emerging as the prime violator of human rights. As if Kalashnikovs and bombs were not destructive enough, nuclear terrorism appeared to be about to become a reality. Supporters of Osama Bin Laden were reported to have said that their leader had obtained chemical and nuclear weapons, and individuals who should be more responsible had called for the free sale of nuclear weapons technology. The justification of terrorism in terms of religious ideology was a particularly potent threat to mankind; calls for jihad in Pakistan plus nuclear weapons capability presented an explosive and destructive mix.

2. It was equally disheartening that the principles of apartheid seemed to apply to combating terrorism. When a white person was killed by a terrorist group retaliatory action was swift, yet groups that routinely massacred innocent civilians in developing countries - groups like the LTTE, the Jammu and Kashmir Liberation Front, and the Babbar Khalsa - were allowed to function overtly from offices in developed countries. While the

Harkat ul Ansar had kidnapped and killed poor Indians, the United States had followed a business-as-usual policy towards Pakistan; it had not banned that organization until Western tourists, including an American, had been kidnapped.

3. The Government of Pakistan provided land and facilities to terrorist groups intent on waging war against India, and such groups, affiliated with political parties, ran offices, held press conferences and advertised in newspapers seeking funds for weapons to fight India. No one inquired into the sources of their financing or the right by which they used the soil of one ostensibly democratic country to advocate the dismemberment of another.

4. Fundamentalist narco-terrorism was also a major enemy of human rights. Fundamentalism recognized no creed but its own, and civilized societies were ill-equipped to do battle with such groups. For democratic nations a new corpus of laws was essential to deal with modern-day terrorists, as existing laws simply placed them behind bars for a few years with the option of release to continue their activities. If human rights were to be preserved, terrorism must be rooted out.

5. Ms. GRAF (Society for Threatened Peoples), speaking also on behalf of the International League for the Rights and Liberation of Peoples (LIDLIP), said that in spite of United Nations efforts much remained to be done in practice to counter the diversification of terrorism as referred to in General Assembly resolutions 51/210 and 50/53. She welcomed Ms. Koufa's constructive preliminary report on terrorism and human rights (E/CN.4/Sub.2/1999/27), and hoped that the next report would delve further into the question of the social break-up which affected the statehood of several countries and the use of mercenaries by the major Powers.

6. Terrorism was a complex act linked to other crimes, such as drug and arms trafficking, and was most often perpetrated with the complicity of States. Although a distinction must be made between State terrorism and terrorist groups, the responsibility borne by the State in the first case should not be forgotten and States must be reminded of their international commitments.

7. The establishment of a world order of fundamental rights entailed not only creating binding norms but implementing them effectively. Unfortunately, the voting records in the adoption of Commission on Human Rights resolution 1998/47 and Economic and Social Council resolution 1998/278 clearly showed States' lack of political will to efficiently combat all forms of terrorism. The resolution of conflicts by armed force and terror rather than dialogue and negotiation threatened international peace and security and required urgent international cooperation. States must refrain from training terrorists or financing terrorist activities.

8. Action against terrorism began with the publicizing of terrorist acts, the prosecution of those involved and their accomplices, and the acceptance of responsibility by the State or governmental authorities in question. In the case of Turkey, recent scandals had revealed the complicity of high-ranking military and political officials in terrorist activities. Ousama Bin Laden, the terrorist par excellence, had originally been trained by the CIA. In

conclusion, her organization firmly condemned the suicide-bomber killing of renowned constitutional lawyer Neelan Thiruchelvam in Sri Lanka on 29 July 1999.

9. Mr. WILKES (Consultative Council of Jewish Organizations), speaking also on behalf of the Coordinating Board of Jewish Organizations and the World Union of Progressive Judaism, drew attention to recent events in Iran, and in particular the bulldozing of a Jewish cemetery, which suggested that the Jewish community was being terrorized by hostile elements within the State. He stressed that he was in no way attacking the authorities of the Islamic Republic of Iran, who since the time of Ayatollah Khomeini had shown serious concern for the security of the Jewish community. The incident in question was a reminder of the irrational hatred of Jews in some sections of contemporary Iranian society, against which the judges in the case must reach an objective decision. There was a section of Iranian society which did not distinguish between Zionists and Jews; it was, for example, regrettable that the official press agency, IRNA, regularly referred to foreign Jews and Jewish organizations as Zionist.

10. Allegations of Zionist espionage had in the past provided fuel for hate-mongering in Iran, and the trials of "Zionist spies" had still not provided any public evidence of espionage within the Jewish community. Indeed, it would be foolish for real Zionist spies to try to work with Iranian Jews, who would be the first group suspected if any real espionage was detected. He welcomed the efforts of the Iranian authorities to tell the international community that the accusation of Zionist espionage did not relate to the maintenance of Jewish religious activity. He hoped they would also explain that such charges did not relate to communication with other Iranian Jews outside the country. To ensure that the trial was not used by extremists to destabilize Iran, he supported the proposal to appoint a United Nations observer recommended by the Special Rapporteur on Iran and agreed to by the Iranian authorities.

11. Attacks on Jewish communities in other countries had led to major police investigations and had also drawn Muslims, Christians and Jews together in solidarity and condemnation of such acts. Not to condemn might in such circumstances be to condone. He believed that Iranian political and religious leaders would want to convey their support to the Jewish community at a time when elements within the Iranian State were attempting to stir up hatred against Jews. During the discussion of agenda item 8, his organization had welcomed the Iranian President's proposed "dialogue of civilizations" as a forum for demonstrating real concern for the protection of minorities. He hoped that the representatives of the Islamic Republic of Iran would respond to his statement, which was a call for dialogue and solidarity.

12. Mr. MAHINDAPALA (World Fellowship of Buddhists) said that the violence inherent in terrorism was antithetical to the fundamental tenets of Buddhism. It was, however, appropriate to review the item on the basis of the Special Rapporteur's invaluable report on terrorism and human rights.

13. The significance of Ms. Koufa's report lay in the paradigm shift from the State as the sole instigator and perpetrator of terrorism to non-State actors. In underscoring the impact of terrorism on human rights, the report

filled a lacuna which violent organizations had exploited to violate human rights while parading under fashionable political labels. The immoral exploitation of the word "liberation" in such organizations' titles to justify terror politics could not be dismissed as mere semantics, but had serious consequences for human rights. The liberal scholar Mr. Neelan Tiruchelvam was the latest in a long line of defenders of peace, democracy and human rights to be murdered by the LTTE in the name of "liberation".

14. The report stated that terrorist acts and methods utilized to coerce others from a free choice and full participation in the political process offended democratic society; the LTTE terrorists who had murdered Mr. Tiruchelvam fitted that description in every detail. He hoped the report would pave the way for a better future for peace, democracy, humah rights and non-violent politics.

15. Mr. BARRY (International Federation of Human Rights) said that his organization welcomed Ms. Hampson's working paper (E/CN.4/Sub.2/1999/28) on reservations formulated by States when ratifying international human rights treaties; it admirably summarized the problems involved in that practice and proposed a plan of action for the future which deserved consideration by the Sub-Commission and Commission.

16. The rules governing reservations were inappropriate, particularly in regard to human rights treaties. The articles of the Vienna Convention on the Law of Treaties which related to reservations derived from the principles laid down by the International Court of Justice in its judgement concerning reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, at a time when obtaining universality had appeared to be a priority. As the Court itself had recognized, however, those principles bound States over and above any treaty obligation. It was because human rights were not treaty-linked that reservations to human rights treaties raised problems: there was a need to review international law on the subject and Ms. Hampson's proposals met that need.

17. FIDH condemned terrorist crimes and agreed with the Special Rapporteur that the State was responsible either for acts attributed to it or for failure to protect its citizens against such acts. Terrorist acts unrelated to the State should be dealt with under national criminal legislation and the currently-developing body of international criminal law, and international judicial and police cooperation should be stepped up to combat any form of transnational criminality.

18. Mr. AL-DOURI (Observer for Iraq) said it was a well-known fact that certain countries had the power to use human rights mechanisms for political purposes by interfering with the treatment of subjects within the competence of other United Nations bodies, such as the Security Council. There was a reluctance, on the part of countries and experts in general, to address the impact of certain United Nations measures in the field of human rights, and in particular the adverse consequences of economic embargoes. He supported the course taken by the Sub-Commission in that area, but suggested that the title of agenda item 12 (b) (i) should be amended since, by their very nature, humanitarian activities could not be contrary to human rights.

19. The situation in Iraq was a sad example of the adverse impact of certain United Nations measures. Everyone, including members of the Sub-Commission, knew the extent to which individual and collective human rights in Iran had suffered owing to the Security Council resolutions, which prevented other United Nations bodies from playing their humanitarian role in protecting the people from the genocide they were experiencing as a result of the insistence of two countries on maintaining the embargo. He also regretted that the daily air attacks by the United Kingdom against Iraq and the violation of Iraqi sovereignty had aroused little concern among the international community, despite their serious repercussions for human rights. It was extraordinary to see United Nations human rights bodies avoiding any mention of the parlous humanitarian situation of the Iraqi people. On the tenth anniversary of the Convention on the Rights of the Child, nothing was said of the suffering of 1 million Iraqi children, and the Committee on the Rights of the Child had neither accepted Iraq's invitation to visit the country nor appealed to the Security Council to protect the children.

20. Thanks to its experience and the objectivity of its members, the Sub-Commission was in an excellent position to rectify the situation resulting from decisions of other United Nations bodies.

21. Mr. MERIC (Observer for Turkey) said that, on the eve of the next millennium, terrorism was cutting across national boundaries and causing enormous anguish throughout the world, its effectiveness increased by new political circumstances and modern technological advances. Because of time constraints, he would concentrate on ethnic terrorism, which seemed to have become an outlet for ethnic grudges.

22. Ethnic terrorism differed considerably from violence perpetrated for ideological or religious motives. Its transcending motive was to forge a distinct ethnic identity and foster ethnic mobilization through violence. Its twofold effect was to ensure ethnic homogenization and financial support, and to cleanse other ethnic elements from a particular territory. It used all types of organized crime, including drug trafficking, extortion, arson and money laundering, to attain its goals.

23. Although terrorism still lacked an agreed definition, its impact on society and the State was so debilitating that urgent and effective action by the international community was needed. In that regard, every member of the international community had an obligation under Article 4 of the Charter of the United Nations not to provide a safe haven or impunity for terrorists.

24. His delegation welcomed the Special Rapporteur's preliminary report (E/CN.4/Sub.2/1999/27) and shared her views concerning the link between terrorism and human rights protection, which had caused it to take the lead in drafting the Commission on Human Rights resolutions on the topic. As to the two essential questions raised by the Special Rapporteur in her report, his Government strongly believed that non-State actors had a secondary erga omnes responsibility for the protection and promotion of human rights and that terrorism was a violation of human rights. The only point which the report failed to address was the question of the impunity accorded by some States to terrorists; he reminded the Special Rapporteur that Commission resolution 1999/27 requested her to give attention to that question.

25. Mr. HETTIARACHCHI (Observer for Sri Lanka) expressed his appreciation to the Special Rapporteur for her excellent report on terrorism and human rights; the completed study would be a fitting contribution to action on what the Secretary-General of the United Nations had described as a "supranational subversive threat" to peace and security. The report was quite correctly based on the principles outlined by the General Assembly and, especially, on the Vienna Declaration and Programme of Action, which substantiated the dangers of terrorism for human rights. He agreed with the Special Rapporteur's observations concerning the problems of the legal accountability of non-State actors. Rather than seek legalistic solutions to those issues, he encouraged the Special Rapporteur to examine practical measures of international cooperation to prevent, discourage and eventually eliminate the "life-support systems" available to the perpetrators of terrorism.

26. Much remained to be done in order to incorporate the issues identified into a comprehensive study which would serve as a basis for action against the scourge of terrorism. In completing that task, all participants must ensure that no recognition was given to terrorist entities in the context of international human rights law or machinery. His delegation would continue to support the valuable analytical work being done by Ms. Koufa. The recent murder by LTTE terrorists of a human rights defender in his country was a stark reminder of the urgency of the task.

27. Mr. HASSAN (Observer for Pakistan) said that the issue of terrorism was a complex one. First, no general definition of terrorism existed, and secondly, terrorism must be differentiated from armed struggle for the right of self-determination. The Special Rapporteur had clearly established a link between terrorism and human rights violations in fact and in law. Terrorism directly and indirectly threatened the life, liberty and dignity of individuals.

28. He agreed with the Special Rapporteur that terrorism posed a threat to a democratic society. However, that statement needed to be qualified. The concept of a democratic society must not be misused, as was done by Indian government-organized non-governmental organizations, in order to engage in tirades against Pakistan while conveniently forgetting the relentless Indian State terrorism being waged in Kashmir.

29. By definition, a democratic and pluralistic society could not exist in a territory occupied by a foreign Power. "Elections" organized by such a Power could not restore democracy because the peoples concerned had not had the chance to determine their own political future. Therefore, efforts to end foreign occupation and its accompanying violent repression were acts of self-defence by occupied peoples and could not be said to undermine a democratic society. The study would be incomplete if it failed to make that important distinction. In that connection, he referred the Special Rapporteur to the Final Document of the Conference of Heads of State or Government of Non-Aligned Countries, which clearly differentiated national liberation struggles from terrorism. The study would also be enhanced if it paid due regard to the language of the General Assembly agenda item on terrorism.

30. Mr. SABHARWAL (Observer for India) said that a comprehensive study of the impact of terrorism on human rights was long overdue, as acts of

terrorism continued to occur despite national and international efforts. Debate on the subject remained confused and inconclusive, partly because of genuine conceptual inadequacies, but to a much greater extent because of the misleading propaganda of the State and non-State actors who sought to conceal their self-serving violent agenda behind lofty principles such as "self-determination".

31. He congratulated the Special Rapporteur on her excellent preliminary report (E/CN.4/Sub.2/1999/27), which demonstrated the impact of terrorism on individual freedoms and on social peace and public order. He agreed with the need to examine the scope of application of international human rights law and the accountability of non-State actors. The current approach to the question needed to be corrected, as it failed to address terrorist abuses and placed undue emphasis on the human rights of terrorists.

32. Organized terrorism promoted by certain States as an instrument of foreign policy was very different in scale, nature and consequences from the actions of stray individuals and groups. His country had been the victim of brutal manifestations of terrorism from a neighbouring country which nurtured territorial ambitions towards the Indian State of Jammu and Kashmir. That country was waging a proxy war against India, which included the operation of training camps for terrorists in territories under its control, the supply of sophisticated weapons and explosives to them, the financing of terrorist organizations, and infiltration of terrorists into India for terrorist outrages. The proxy war had caused untold misery and posed a serious challenge to the democratic, secular and pluralistic fabric of Indian society.

33. Having itself been the victim of terrorism, India was eager to promote international efforts to combat it, and had already called for a comprehensive international convention on terrorism which would make a significant contribution to human rights law by addressing the link between terrorism and the denial of human rights. He looked forward to the Special Rapporteur's final report and hoped that it would become an important landmark in the struggle of the international community against terrorism.

34. Mr. MEHEDI thanked the Special Rapporteur for her excellent report (E/CN.4/Sub.2/1999/27). In a world characterized by instantaneous communications, rapid technological development and ease of travel, modes of perpetrating international terrorism had increased. At the same time, the viciousness of the attacks had grown due to progress in weaponry and explosives technology. Terrorist groups were increasingly sophisticated, and certain Governments played the dual role of arsonist and fireman by helping terrorists gain access to chemical weapons and other extremely sophisticated and dangerous material. Despite the considerable resources devoted to action to combat terrorism, there had been a proliferation of such acts over the past decade.

35. As the report clearly showed, the first attempts to develop international mechanisms and treaty provisions to combat terrorism dated from before the Second World War; the protocol to the Convention for the Prevention and Punishment of Terrorism, adopted under the auspices of the League of Nations on 16 November 1937, contained the statute of an international criminal court. Since then, many regional conventions had been adopted with

a view to combating international terrorism, each containing a different definition of terrorism. Unfortunately, the sound definition provided in the Statute of the International Criminal Court had been removed from the categories of crime covered in that Statute.

36. From a methodological standpoint, he would prefer work on the topic to focus on "terrorism and human rights", as outlined in part II of the Special Rapporteur's report. He disagreed with the classification of terrorism as an ordinary crime. He did not think an ordinary offence such as theft or non-fulfilment of a contract should be compared with international terrorism.

37. In conclusion, he said it was immaterial who sponsored the paper referred to in Sub-Commission decision 1998/155; the goal was to find ways of raising States' awareness of the need to accede to international human rights instruments.

38. Mr. EIDE said that there were three main questions to be addressed in connection with Ms. Koufa's report (a) the definition of terrorism; (b) the question whether terrorism was a human rights issue; and (c) if so, what means were available under the human rights agenda for addressing it.

39. With regard to the definition of terrorism, he agreed that analytical exploration was needed in the next report. Was it governed by the nature of the act, its pattern the actors involved government-linked elements or non-State actors inside or outside a country or the target of the act? It was clear that terrorism had an impact on human rights; the crucial question was whether non-State actors, as well as States, could be held accountable for their acts under human rights law. In his view, they could and should be held accountable under domestic criminal law, universal jurisdiction or international criminal tribunals. Beyond that, they must be held morally accountable.

40. Assuming that terrorism was a human rights issue, what were its implications? When the acts were committed by State actors or through neglect by the State, a wide array of mechanisms existed to address them. When the acts were committed by movements beyond government control, efforts should be made by NGOs and others to pressure them to desist.

41. Finally, everyone must be aware of the dangers of misuse of the debate on terrorism. States must not be able to escape criticism for violating human rights even if they faced terrorist acts, since such acts at times derived from their own actions. A complex dynamic was involved.

42. Ms. KOUFA thanked the previous speakers for their constructive comments, which would be duly considered in the progress report, and for their understanding of the complexity and difficulties involved in her mandate. In view of time constraints, it was not possible to respond to all the comments; she requested that more time should be allotted to discussion of the topic at the Sub-Commission's fifty-second session. She thanked the various NGOs and observer Governments for their contributions to the discussion, and concluded by asking to be included among the special rapporteurs who received through the Secretary-General information on the implications of terrorism for the full enjoyment of human rights.

43. Ms. HAMPSON welcomed the comments and encouragement she had received on her paper (E/CN.4/Sub.2/1999/28). She pointed out that the purpose of the annex was simply to indicate the number of reservations and to show whether they were evenly spread among provisions and whether they related mainly to procedural or substantive provisions. Replying to a question by Mr. Joinet, she said that the question had originally arisen in response to interest shown by the Committee on the Elimination of Racial Discrimination. In response to a question by Mrs. Warzazi, she said the Convention on the Rights of the Child provided for reservations in article 51, but generally speaking, reservations to a treaty were permitted only if they were compatible with the purposes of the treaty, whether or not they were specifically provided for. She agreed with Mrs. Warzazi on the policy dilemma referred to in paragraph 25 of the report.

44. Although States exercised sovereignty in ratifying treaties, they could not plead sovereignty to act as they wished. Mr. Mehedi had referred to the Statute of the International Criminal Court as making sovereignty subject to international criminal law. She pointed out that the court's jurisdiction included crimes against humanity; in other words, sovereignty was subject to the fundamental human rights obligations of States. She concluded by endorsing Ms. Koufa's call for more time to be set aside for the discussion of reports at the fifty-second session.

45. Mr. RAMISHVILI expressed appreciation for the comments received in connection with Mr. Kartashkin's paper (E/CN.4/Sub.2/1999/29); they would be taken into account in the following report. Mr. Kartashkin would be present at the fifty-second session to discuss the paper. It was logical for the Sub-Commission, whose mandate lay at the heart of human rights issues, to seek new mechanisms and measures in order to achieve observance of international human rights standards. It stood to benefit from dynamic cooperation with States and NGOs, which he encouraged to submit written observations. He hoped the secretariat would study closely the question of the time needed to study the reports, especially the very complex initial reports.

46. Mr. HUSSAIN (Observer for Iraq), speaking in exercise of the right of reply, criticized the statement of one NGO, which held itself up as impartial and objective but had targeted Iraq more than once. He wondered whether that was because that NGO was the successor of another NGO which had been making insulting remarks about Iraq since the 1980s or because it was financed by Governments hostile to Iraq. Everyone knew that the United States had devoted $97 million to supporting the Iraqi opposition. However, it had not said a single word in favour of the Iraqi people, including 1 million children, who were subjected to continual bombing in both the north and south of the country, in what amounted to genocide.

47. Mr. AL-HADDAD (Observer for Bahrain), speaking in exercise of the right of reply, said that one NGO had taken the floor to utter its customary lies about his country, lies that originated from extremist groups which did not have his country's interests at heart. Because of its policy of transparency and the cohesion between its leadership and people, Bahrain was fully capable

of achieving further progress in the field of human rights. It had endeavoured to place human beings at the centre of all its development policies and objectives. He thanked the Chairman and all the members for their understanding and cooperation, and said that his Government would continue to strive to attain its objective of promoting human rights.

48. Ms. JANJUA (Observer for Pakistan), speaking in exercise of the right of reply, said that Indian government-organized NGOs came to the Sub-Commission to spread falsehoods and distribute documents which demonstrated nothing but their deep hatred of Pakistan. The Indian delegation could hardly take the floor concerning Kashmir because it simply had no case. The government-organized NGOs had been sent to the Sub-Commission with the express purpose of blurring the distinction between the Kashmiri people's genuine struggle for self-determination and terrorism, and making vicious and gratuitously insulting statements against Pakistan. Their presence was part of a massive and systematic disinformation campaign by the Indian State against the Kashmiris and her country.

49. The Indian State ran one of the most sinister and extensive terrorist machines in the world. It used terrorists to assassinate Kashmiri leaders and rewarded them with government jobs in the Indian Border Security Force and other paramilitary units. Could it deny, in the face of documented information, the extrajudicial executions, torture, disappearances, violence against women and collective punishments by the Indian State machinery in Indian-occupied Kashmir? In that connection, she quoted Human Rights Watch Asia to the effect that the Indian Government attempted to discredit militant organizations in Kashmir by claiming that the uprising had been provoked by Pakistan and was not indigenous in origin.

50. In their scurrilous, fabricated material attacking Pakistan, the Indian-paid NGOs had defaced Pakistan's national flag and even attacked Islam by disfiguring the crescent. The right to freedom of expression did not include offences against the emblem of a sovereign nation; the Sub-Commission must not allow such attempts to spread national and religious hatred to go unchecked.

51. If the NGOs in question had been genuinely concerned about human rights, rather than serving as foreign policy tools of the Indian Government, they would have said at least a few words about the abysmal human rights situation in India and Indian-occupied Kashmir during the past nine years. Their silence amounted to their confession. In a year which had seen 3,000 reported terrorist attacks, 2,000 had been directed against Pakistan, thanks to its neighbour.

52. Mr. SABHARWAL (Observer for India), speaking in exercise of the right of reply, said that his delegation categorically rejected the Pakistan delegation's allegation that certain NGOs which had criticized Pakistan's dismal human rights record had been doing so at the behest of his Government. It was ironical that a Government which tirelessly pursued its anti-Indian agenda in innumerable forums should become so rattled by criticism directed

against itself. And he was amazed at Pakistan's tenacity in clinging to its canard of indigenous struggle in the Indian State of Jammu and Kashmir, which had been exposed time and again. He wondered how long Pakistan would continue its by now thoroughly-discredited effort to conceal its deep involvement with terrorism as a tool of its foreign policy and territorial designs.

53. Ms. JANJUA (Observer for Pakistan), again speaking in exercise of the right of reply, said the fact that the delegation of India had taken the floor in support of government-organized NGOs was self-explanatory.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 2) (continued) (E/CN.4/Sub.2/1999/L.5-L.7, L.12/Rev.1 and L.15-L.19)

Draft resolution E/CN.4/Sub.2/1999/L.16

54. The CHAIRMAN recalled that two amendments to draft resolution L.16 had been rejected and that a proposal by one of the sponsors, Ms. Hampson, to delete the annex had been adopted.

55. Mrs. WARZAZI, referring to rule 62 of the Sub-Commission's rules of procedure, requested a separate vote concerning the deletion of the following phrase, which began on the third line of the eighth preambular paragraph: "the Islamic Republic of Iran, Nigeria, Pakistan, Saudi Arabia, the United States of America and Yemen, of which 10 occurred in the United States".

56. Ms. HAMPSON said that the question raised by Mrs. Warzazi had already been put to the Sub-Commission in the form of a vote on an amendment. Furthermore, only the day before she had received relevant news regarding the preambular paragraph in question: an Iranian newspaper had reported the execution on 18 August 1999 of a 20-year-old man for a crime committed at the age of 15, in 1994.

57. Mrs. WARZAZI noted that the young man in question had been executed at the age of 20. She was fully within her rights in requesting a separate vote on the eighth preambular paragraph.

58. Ms. HAMPSON explained that the person executed had been 15 years old at the time the offence had been committed.

59. Mr. GUISSÉ said that the salient age was age at the time of commission of the offence rather than age at the time of execution of the sentence.

60. Mr. BOSSUYT, referring to rule 55 of the rules of procedure, said that Mrs. Warzazi's proposal had already been voted on and rejected. The deletion of the phrase in question would constitute discriminatory treatment.

61. Mr. ALFONSO MARTINEZ pointed out that Mrs. Warzazi was not requesting a new vote on her earlier proposal, but a separate vote on a part of the draft resolution under review.

62. Mr. EIDE said he would appreciate knowing the difference between Mrs. Warzazi's earlier proposal, which had been rejected, and the proposal which she was now making.

63. Mr. YIMER, replying to Mr. Boesuyt, said that rule 55 was inapplicable, as it must be understood as covering draft resolution L.16 as a whole.

64. Mrs. WARZAZI, replying to Mr. Eide, said that her earlier proposal had been an amendment; she was now proposing a separate vote on the phrase in question.

65. Mr. BOSSUYT recalled that, in deciding the order in which it would vote on the proposals concerning draft resolution L.16, the Sub-Commission had applied rule 65 of its rules of procedure, which spoke of proposals, rather than rule 64, which spoke of amendments. As far as he was concerned the same proposal was being resubmitted.

66. Mr. YIMER said that rule 65 spoke of two or more proposals other than amendments, and clearly covered resolution L.16 rather than amendments to it.

67. Mrs. WARZAZI said that she was basing her proposal on rule 62, the first sentence of which she read out. She was therefore proposing a separate vote on the phrase in question. The inclusion of the United States of America among the countries listed in the phrase to be deleted was aimed precisely at avoiding selectivity.

68. A vote was taken by secret ballot on Mrs. Warzazi's proposal.

69. At the invitation of the Chairman, Mr. Guissé and Mr. Khalil acted as tellers.

70. Mrs. Warzazi's proposal was rejected by 12 votes to 11, with 2 abstentions.

71. Mr. MAMDOUHI (Observer for Iran) said that it was unfair to make a remark like the one made by Ms. Hampson about his country without first consulting the Government concerned and verifying the information. Young offenders in the Islamic Republic of Iran received special judicial treatment in the Centre for Correction and Education, which had separate quarters for temporary detention, correction imprisonment. Juveniles were separated in accordance with age, past criminal record and, as far as possible, type of offence. There was also a special section for female minors, and young people in all sections received education and training.

72. Article 22 of the Iranian Constitution protected the right to life, and capital punishment in Iran was limited to the most serious crimes and subject to the rules of due process. The information invoked concerning his country was outdated and insufficient. It had provided all necessary information on

the death penalty to the relevant mechanisms and cooperated closely with the Commission's Special Rapporteur on the human rights situation in Iran.

73. He agreed with other speakers that recent initiatives to include names of countries in thematic resolutions duplicated other thematic procedures and the work of the Commission, and was by nature selective. Before such a resolution was submitted, the State concerned should be given a chance to investigate and respond to allegations.

74. Ms. JANJUA (Observer for Pakistan) said that her country opposed the death penalty for young offenders. It was a party to the Convention on the Rights of the Child, and legislation was before Parliament to give effect to its obligations under the Convention. The Senate, in examining the text of the bill, had called for the minimum age for imposition of the death penalty to be raised to 18.

75. There had been no execution of a young offender in Pakistan in the past seven years. Shamoun Masih, who Amnesty International claimed had been 14 years old at the time of a capital offence, had actually been 18, according to government records. Thus sufficient grounds did not exist for the reference to Pakistan in the eighth preambular paragraph, and her delegation had hoped that the paragraph would be deleted from the text of the resolution. She also found it difficult to comprehend why the resolution arbitrarily took 1990 as a cut-off date. She wondered whether the inclusion of names in the eighth preambular paragraph served any purpose, especially with regard to countries in which legislation was already being enacted to remedy the situation.

76. Mr. AL-MADI (Observer for Saudi Arabia) said that the reference in the eighth preambular paragraph and the portions of the draft resolution which dealt with reports of extrajudicial execution in his country were completely unsubstantiated. Secondly, at a preceding meeting the secretariat had distributed a document which stated that a law existed in Saudi Arabia prohibiting the execution of a child under 10 years of age. That document was in conformity with the Islamic Shariah and legislation in force in Saudi Arabia. Thirdly, although Saudi Arabia's report to the Committee on the Rights of the Child would not be considered until January 2000, a copy had somehow reached the press, thereby distorting the procedure. Fourthly, the alleged execution of a juvenile had been considered by the Sub-Commission in 1995 and a decision had been taken at that time.

77. Ms. HAMPSON said that the sponsors of draft resolution L.16 had agreed to delete the eighth preambular paragraph.

78. A vote was taken by secret ballot on draft resolution E/CN.4/Sub.2/1999/L.16.

79. At the invitation of the Chairman, Ms. Motoc and Mr. Oloka-Onyango acted as tellers.

80. Draft resolution E/CN.4/Sub.2/1999/L.16 as a whole, as amended, was adopted by 14 votes to 5, with 5 abstentions.

81. Mr. LONG (Observer for the United States) said that his Government viewed the proceedings of the Sub-Commission under agenda item 2 with grave concern. The Sub-Commission's raison d'être must be to serve the needs of the Commission as defined by the Commission itself, notably in resolution 1999/81 and the report of the Bureau of the fifty-fourth session concerning rationalization of work. In resolution 1999/81, the Commission quite pointedly had not invited the Sub-Commission to expend its energy and resources on many of the resolutions and Chairman's statements which had been considered under item 2, and the Bureau's report contained a specific recommendation that the Sub-Commission should debate, but not entertain resolutions on, human rights violations in all part of the world. His Government fully accepted the need for the Sub-Commission to be independent and impartial, and considered it to be a valuable arm of the Commission, but only if it operated within the parameters set by the Commission and at a funding level appropriate for that purpose.

82. In speaking at a preceding meeting about the future tasks and working methods of the Sub-Commission, Mr. Eide had noted that the majority of members believed that the Sub-Commission's authority to adopt country or thematic resolutions not pending before the Commission should be used with restraint. Given the number and scope of the draft resolutions currently before the Sub-Commission, however, his delegation could not be optimistic about prospects for restraint. He also wondered what effect the experts anticipated the Sub-Commission's behaviour would have on the deliberations of the working group of the Commission which would be considering the question of reform of the Commission's mechanisms.

83. He recalled the contents of Commission resolution 1999/61 on the question of the death penalty, which made several references to the application of the death penalty to juveniles. His delegation had explained its position on the matter during the Commission debates and he would not repeat it. He wished only to say that capital punishment did not violate international law or any treaty to which the United States was a party, provided it was carried out with due process, which was assured by the United States legal system. Although many United States citizens favoured abolishing capital punishment, a majority supported its application for particularly heinous crimes. Should the people change their position, there was little question that the country's laws would follow suit.

84. In essence, draft resolution L.16 sought to supersede the Commission's pronouncement by appending the private opinions of the Sub-Commission sponsors. Not one of the 13 sponsors of draft resolution L.16 had made any attempt to discuss the text with his delegation, in violation of the Sub-Commission's own procedures. That could only mean that the experts saw themselves as unencumbered even by the operating guidelines of their own institution.

85. Finally, the Sub-Commission had flagrantly violated its mandate by purporting to address issues which the Charter of the United Nations entrusted to the Security Council. He also took strong exception to the fact that the Governments which had been directly implicated in the matter had not had the opportunity to put their views on record.

86. Mr. ALFONSO MARTINEZ said he utterly rejected the previous statement, which reflected a serious lack of respect for the Sub-Commission. It was most inappropriate to accuse the Sub-Commission of violating its mandate simply because Commission resolution 1999/61 did not specifically authorize it to take a step which it was in any event already authorized to take. He also failed to comprehend the reference to the Security Council, which was not mentioned in draft resolution L.16.

87. Mr. FAN Guoxiang said that he fully respected the position of the United States Government. If the statement had been made before the vote on L.16, it might have had a different impact.

88. Mr. JOINET recalling a previous Sub-Commission session at which the head of the United States delegation to the Sub-Commission had called a press conference to suggest that the Sub-Commission should be dissolved, said that it was reassuring to hear the representative of the United States speak of the Sub-Commission as a valuable arm of the Commission.

Draft resolution E/CN.4/Sub.2/1999/L.17

89. Ms. HAMPSON, introducing draft resolution E/CN.4/Sub.2/1999/L.17, said that in no fewer than five resolutions listed in the preamble, the Commission on Human Rights had called on Governments to ratify human rights treaties. The five States named in the resolutions had all ratified a human rights treaty and then sought to withdraw from the treaty or from a previously-accepted monitoring or enforcement mechanism, either generally or with regard to the death penalty, in the context of findings of serious human rights obligations by the treaty bodies. Unlike States such as Belarus, which were moving in the right direction by ratifying treaties, the five States named were moving in the opposite direction to what the Commission and Sub-Commission urged; that development must be discouraged. She noted that the Commission and Sub-Commission had included both international and regional human rights treaties in their appeals for ratification. The draft resolution took no position on whether withdrawals were lawful under the treaty in question. The issue of importance for the Sub-Commission was the promotion and protection of human rights, which were best effected through ratification of human rights treaties and were frustrated when States denied those under their jurisdiction protection which they had previously enjoyed.

90. Mr. ALFONSO MARTINEZ said he was concerned that a resolution such as L.17, which named specific countries, was necessarily selective and implied a negative value judgement on the countries in question. It also combined issues that were very different. Most seriously, it considered as a potential violator of human rights a sovereign State which exercised a right fully recognized under international law: the right to withdraw from a legal instrument to which it had previously agreed or to withdraw from, or cease to give effect to, a unilateral statement, as in the case of Peru.

91. As three separate issues were raised in connection with the States mentioned, he proposed that three votes should be taken: the first would concern situations relating to universal instruments, or the cases of the Democratic People's Republic of Korea, Jamaica, Guyana, and Trinidad and Tobago, covered in the eleventh, twelfth and thirteenth preambular paragraphs

and the corresponding operative paragraphs 4, 5 and 6. The second would concern Trinidad and Tobago's withdrawal from a regional obligation, covered in the fourteenth preambular paragraph and operative paragraph 6. The third vote would relate to the case of most concern to him, that of Peru's withdrawal from a unilateral statement, which was covered in the fifteenth preambular paragraph and operative paragraph 8.

92. Mr. YIMER said that it was unfair to specify in the resolution States which had acceded to human rights instruments and later withdrawn without mentioning States which had not acceded at all. He also wondered when, in Ms. Hampson's view, a State was justified in withdrawing from a human rights instrument: if the answer was "never", why had the right of withdrawal been included in those instruments?

93. Mr. GUISSÉ said that the question of reservations was linked to State sovereignty. States had the right to accede to international conventions, the right not to accede, and the right to withdraw. The question raised highly technical issues of international law, and he wondered whether the Sub-Commission was competent to consider it. States which denounced treaties must understand that they continued to be bound by the terms of the treaty during the notification period.

94. Mr. JOINET said that he had hesitated before joining the sponsors of draft resolution L.17 because of concerns about the Sub-Commission's competence to speak of regional instruments. However, as Commission resolution 1999/71 encouraged cooperation between United Nations bodies and regional human rights arrangements, he did not believe the Commission would object to the resolution including such arrangements.

95. Mr. SORABJEE said that he was not comfortable with draft resolution L.17. Even assuming that withdrawal from a human rights treaty was reprehensible, which he did not believe, was accession with a large number of reservations any less so? Those were matters for individual States to decide, especially with regard to optional protocols and the jurisdiction of regional courts. Moreover, the last preambular paragraph was far too broad in scope.

96. Ms. HAMPSON, replying to a question by Mr. Yimer, said that she had introduced draft resolution L.17 under agenda item 2 for two reasons. First, in all cases, the State concerned had withdrawn solely on account of an adverse finding by a monitoring mechanism; States generally did not withdraw when told they were doing everything right. Secondly, she had wished to accommodate the concern of Mr. Martínez, who had objected to resolutions naming countries under agenda items other than item 2. Concerning Mr. Yimer's reference to States which had not ratified human rights instruments, she noted that the resolution began by appealing strongly to States to ratify. As to competence, there was nothing in the resolution which stated the Sub-Commission's position as a matter of law. Its task was not to decide whether a body could withdraw from a particular treaty commitment as a matter of law, but to promote respect for human rights. Also important was the fact that the withdrawals targeted in the draft resolution were recent developments, which the Sub-Commission should recognize and seek to nip in the bud, especially as Commission resolution 1999/71 stressed very forcibly the desirability of ratifying international and regional human rights treaties.

97. Mr. FAN Guoxiang endorsed the remarks of Mr. Yimer, Mr. Guissé and Mr. Sorabjee. He did not think that withdrawal from a human rights instrument was synonymous with large-scale human rights violations. However, if the draft resolution was put to a vote, he would support Mr. Martínez's proposal for three separate votes. He was also concerned that the draft resolution used a thematic pretext to point a finger at certain countries.

98. Mr. GUISSÉ said that if the draft resolution was simply an appeal, as Ms. Hampson had stated, it might be preferable for it to take the form of a Chairman's statement rather than a resolution.

99. Mr. DIAZ URIBE, speaking as one of the sponsors of the draft resolution, said that its aim was simply to encourage those States which had withdrawn from human rights instruments to re-accede, and to stress that ratification enhanced rather than undermined sovereignty.

100. Mrs. WARZAZI considered that it had been a mistake to submit draft resolution L.17 under agenda item 2. Secondly, quite apart from the question of State sovereignty, regional instruments were not within the Sub-Commission's realm; it was for the State parties to those instruments to address the issue of withdrawals.

The meeting rose at 9 p.m.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1999/SR.31
1 September 1999

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND
PROTECTION OF HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 31st MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 25 August 1999, at 10 a.m.

Chairman: Mr. HATANO

CONTENTS

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (continued)

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO THE ELIMINATION OF RACIAL DISCRIMINATION:

(a) SITUATION OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

(b) XENOPHOBIA (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.99-15265 (E)

The meeting was called to order at 10.20 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 2) (continued) (E/CN.4/Sub.2/1999/L.17, L.18 and L.19)

Draft resolution on continuing of obligations under international human rights treaties (E/CN.4/Sub.2/1999/L.17) (continued)

1. Mr. BENGOA said that it was crucial that the Sub-Commission should strengthen the international legal system in the field of human rights, which was currently under threat. The draft resolution made it clear that, if action was taken that was contrary to the interests of some States parties, they withdrew from the mechanism concerned. The Sub-Commission had regularly to consider the status of the various international human rights instruments, encouraging States to become or remain parties to them. He requested that his name be added to the list of sponsors.

2. Mrs. WARZAZI said that the title of the draft resolution seemed to suggest that the Sub-Commission was criticizing States that withdrew from their obligations. In any case, the draft resolution had nothing to do with item 2 of the agenda. It had not been properly thought through. The Commission could not be asked to consider the implications of withdrawal from, or limitation of the scope of, international treaty obligations because it was only the States parties that had the right to do so. In that connection, she cited the relevant provisions on the right of denunciation of the International Convention on the Elimination of All Forms of Racial Discrimination (article 21), the Optional Protocol to the International Covenant on Civil and Political Rights (article 12) and the Convention on the Rights of the Child (article 52). She was opposed to the draft resolution.

3. Mr. SIK YUEN, speaking as one of the sponsors, said that the essential point made by the draft resolution was that it did not help to advance the protection of human rights when States that had voluntarily adhered to treaties decided subsequently to withdraw from their obligations or from submitting themselves to the jurisdiction of the relevant treaty body. The draft resolution in no way usurped a State's sovereign right to adhere to or withdraw from international human rights instruments.

4. There was clearly a divergence of opinions among the members of the Sub-Commission, and the draft resolution was the kind of measure which required broad consensus if it was to be effective. In paragraph 9, the Secretary-General was requested to submit a report on the status of withdrawals and reservations with regard to international human rights treaties to the Commission and the Sub-Commission; once that report was available, the Sub-Commission might be able to approach the matter again with more apparent even-handedness.

5. Mrs. DAES said that it was the duty and responsibility of every individual to strive for the promotion and protection of human rights, and the

draft resolution had been submitted in that spirit. Its main objective was to contribute to the further promotion and protection of human rights by supporting the ratification of treaties and discouraging withdrawal from treaty obligations. For many years, the Sub-Commission had been inserting references in resolutions urging Governments to ratify international human rights instruments, and it had always done so in good faith. The draft resolution should be adopted as it stood but, if other members of the Sub-Commission wished to delete the names of the countries mentioned or modify the relevant paragraphs, she would have no objection.

6. Mr. FIX ZAMUDIO said that the Sub-Commission had long been encouraging States parties to adhere to and ratify international and regional human rights instruments, and had always expressed its satisfaction when they did so. It was not good for the promotion and protection of human rights when States parties entered reservations or withdrew from their obligations. It was quite appropriate for the Sub-Commission to encourage them and invite them to rethink their positions; in so doing it was not in any way encroaching upon their sovereign rights.

7. Mr. PINHEIRO said that the draft resolution did not take up any position regarding the legality of a State party withdrawing from or limiting the scope of its international treaty obligations; that was a problem for the treaty bodies to address. The Sub-Commission's main concern was the promotion of human rights. The draft resolution made no attempt to usurp the legitimate sovereignty of any State party. It was a humble and modest endeavour to indicate concern at the somewhat strange direction in which certain States parties were moving. Some countries had not even ratified international human rights instruments, and it certainly did not represent good practice for a State party to withdraw from a mechanism if its human rights performance was criticized. He did not know of a single case of a State party denouncing an international human rights mechanism which had not previously been criticized by that mechanism.

8. Mr. JOINET said that the process of withdrawing from international human rights obligations was a recent one: it had begun in 1997. The draft resolution in no way suggested that a State party's right to withdraw was being contested, and none of the terms employed in the draft resolution was condemnatory. The verbs used were "appeals", "encourages", "invites" and "urges". The Sub-Commission would use the draft resolution as a means of sharing its genuine concern with the States parties.

9. Mr. EIDE said that the Sub-Commission's new title made it quite clear that its most important tasks were promoting the ratification of human rights treaties and securing what had been achieved. In the draft resolution, the Sub-Commission was not dealing with the question of whether it was legally permissible for a State party to withdraw from or limit the scope of its international treaty obligations; that was a matter for the relevant treaty body. The Sub-Commission should express its concern at the failure of some States parties to ratify treaties and the withdrawal of others from their obligations, once they had been criticized. The draft resolution unquestionably fell within the scope of agenda item 2. The phenomenon was recent and had to be dealt with quickly. As for the references to regional treaties, he pointed out that the Commission had itself adopted a resolution

at its most recent session acknowledging their importance. He would vote against any proposal to delete the names of States from the draft resolution.

10. Mr. GUISSÉ said he could not support the draft resolution. It was premature to submit such a draft resolution before the Sub-Commission had had an opportunity to read and discuss the report Ms. Hampson was preparing on reservations.

11. Mr. ALFONSO MARTÍNEZ said that there was a distinct minority of members who did not feel that the text of the draft resolution was acceptable or could contribute to furthering the promotion and protection of human rights. The balanced and moderate language of the operative paragraphs must be seen in the context of the language of the eighth preambular paragraph which spoke of the Sub-Commission being "concerned that some States [had] chosen to openly defy, disregard or otherwise ignore the recommendations made to them by international and regional human rights treaty monitoring bodies".

12. Were it not for certain minor textual changes and the naming of countries, he could himself have been one of the sponsors. Their number meant that the outcome of any vote was known in advance, but he thought that the Sub-Commission should not adopt the draft resolution with undue haste. If it came to a vote, he would like separate votes to be taken on a number of paragraphs. The Sub-Commission would, in any case, be discussing the question of reservations and withdrawals at its next session when it would have Ms. Hampson's report before it. One solution might be to give further thought to the issues and postpone a vote until that session.

13. The draft resolution would, he thought, be more effective in promoting human rights if it did not name and censure the individual countries. Countries would, willy-nilly, continue to withdraw from or limit the scope of their international treaty obligations if their own national interests so dictated.

14. Mr. SORABJEE said that, in view of the clarifications and statements made by Mr. Sik Yuen, Mr. Pinheiro and Mr. Eide to the effect that the draft resolution did not take a stand on the legality of the actions of the States concerned and did not question their right to withdraw, some of his reservations had been removed. As for Mr. Alfonso Martínez' statement regarding the language of the eighth preambular paragraph, it was surely the operative part of a resolution which prevailed; in the case of the draft resolution in question, the operative part used language which made it quite clear that the Sub-Commission was urging, requesting and imploring States. He still shared one lingering doubt with some of his colleagues, however, namely, that the Sub-Commission might be biting off more than it could chew if it adopted the draft resolution.

15. Mr. YIMER said that, although he welcomed the sponsors' assurances that the draft resolution was not intended to question the legitimacy of States withdrawing from human rights instruments, he still doubted whether the naming of States would, in fact, promote human rights.

16. Mr. FAN Guoxiang said that he, too, questioned whether the draft resolution would promote human rights. Since withdrawal from a treaty was

agreed by everybody to be completely legitimate, that act alone could not constitute a violation of human rights law. What seemed to be implied by the draft resolution was that such withdrawal must reflect a violation, but no evidence thereof had been produced in respect of the countries mentioned in the text. It was for that reason that a similar draft resolution had been rejected some years previously. Name-calling in the absence of definite proof of wrongdoing was not a legitimate procedure. He would, therefore, prefer to see action on the matter postponed for another year but, if there were to be a vote on the draft resolution, he supported the proposal by Mr. Alfonso Martínez that there should be separate votes on certain paragraphs.

17. Ms. HAMPSON said that, while it had not been the intention of the sponsors to suggest that withdrawal was in itself evidence of gross violation of human rights, the fact remained that, in all the cases mentioned, the withdrawals had occurred after violations had been reported by human rights bodies.

18. Mr. ALFONSO MARTÍNEZ said that that statement confirmed his reservations about the draft resolution because it appeared to justify the attack upon the exercise of a legitimate right on the grounds that unproven violations had previously occurred. He would certainly prefer action on the draft resolution to be postponed until the following session, but did not wish to make a formal proposal to that effect.

19. Mrs. WARZAZI said that she, too, would prefer action to be postponed until the following year.

20. Ms. HAMPSON said that all the sponsors were opposed to any such postponement.

21. The CHAIRMAN said that, in view of the divergence of opinions, it would clearly be necessary to put the draft resolution (E/CN.4/Sub.2/1999/L.17) to the vote. The separate votes requested by Mr. Alfonso Martínez related to three groups of paragraphs. The first group concerned eleventh, twelfth and thirteenth preambular paragraphs and paragraphs 4, 5 and 6.

22. The vote was taken by secret ballot.

23. At the invitation of the Chairman, Mr. Sorabjee and Mr. Sik Yuen acted as tellers.

24. The paragraphs in question were retained by 17 votes to 8.

25. The CHAIRMAN put to the vote the fourteenth preambular paragraph and paragraph 7.

26. The vote was taken by secret ballot.

27. At the invitation of the Chairman, Mr. Eide and Mr. Fan Guoxiang acted as tellers.

28. The paragraphs in question were retained by 17 votes to 8.

29. The CHAIRMAN put to the vote the fifteenth preambular paragraph and paragraph 8.

30. The vote was taken by secret ballot.

31. At the invitation of the Chairman, Mr. Bossuyt and Mr. Bengoa acted as tellers.

32. The paragraphs in question were retained by 14 votes to 10, with 1 abstention.

33. Mr. VOTO-BERNALES (Observer for Peru) said that his delegation had been extremely surprised that a group of experts should submit, under agenda item 2, a draft resolution that did not refer to a single violation of human rights as such. The draft resolution referred exclusively to the exercise of the right possessed by all States to denounce and withdraw from international treaties. It thus constituted a serious departure from the procedure of international law. The decision of Peru to withdraw from the jurisdiction of the Inter-American Court of Human Rights - which it was fully entitled to do - had resulted from an ultra vires action by the Court, which could have resulted in the release of hundreds of terrorists and gravely threatened the peace and security of the country.

34. The draft resolution was also selective in that Peru's situation with regard to the Court was precisely the same as that of Barbados, Dominica, Grenada and Jamaica. Likewise, Trinidad and Tobago, Canada and the United States of America did not recognize the competence of the Court because they were not even parties to the American Convention on Human Rights.

35. As far as the United Nations was concerned, Peru was cooperating positively with all bodies for the promotion and protection of human rights. It was a party to the six international treaties, and was one of the few States that had submitted its reports on time.

36. The draft resolution was not only legally questionable and politically selective, it also failed to make a positive contribution to progress in the field of human rights. His delegation hoped, therefore, that the Sub-Commission would reject it.

37. The CHAIRMAN put to the vote the draft resolution (E/CN.4/Sub.2/1999/L.17) as a whole.

38. The vote was taken by secret ballot.

39. At the invitation of the Chairman, Mr. Weissbrodt and Mr. Yimer acted as tellers.

40. The draft resolution, as a whole, was adopted by 17 votes to 7, with 1 abstention.

Draft resolution on the situation of long-term refugees and internally displaced persons (E/CN.4/Sub.2/1999/L.18)

41. Mr. EIDE, introducing the draft resolution on behalf of its sponsors, said that it dealt with two situations, the one concerning long-term alleged refugees in Nepal and the other concerning internally displaced persons in Turkey. The sponsors proposed, therefore, that it should be split into two separate draft resolutions, (a) and (b), which were about to be circulated, so that members would have the opportunity to vote separately on the two components.

42. Mr. GUISSÉ, supported by Mr. ALFONSO MARTÍNEZ, pointed out that the deadline for the submission of draft resolutions on agenda item 2 had expired.

43. Mr. PARK Sang-yong said that, although he had withdrawn his sponsorship of the draft resolution, his name still appeared among the sponsors. He requested that the oversight be remedied.

44. Mrs. WARZAZI said there were internally displaced persons not only in Turkey but in many other countries also. It was inappropriate to focus on Turkey, particularly under the current tragic circumstances. As far as Bhutan was concerned, she regretted that Mr. Joinet, who had visited the country as a member of the Working Group on Arbitrary Detention, had not been consulted on the matter. She proposed the deletion of sections A and B and the first paragraph of section C of the original draft resolution and was opposed to the two new draft resolutions.

45. Mr. EIDE requested that a decision should first be taken on the proposed division of the draft resolution into two separate texts.

46. Mr. ALFONSO MARTÍNEZ said he noted that the new draft resolutions, which he had just received, contained a number of changes that needed to be studied. He would prefer to maintain the previous draft resolution and have separate ballots on its two constituent elements.

47. Ms. HAMPSON said that the division of the draft resolution into two for ease of discussion had entailed no substantive changes. The preambular paragraphs dealing with refugees were contained in draft resolution (a), those dealing with internally displaced persons in draft resolution (b), and those dealing with both categories were included in both draft resolutions. As a result of the change of form, the draft resolutions had become country rather than thematic resolutions and were therefore entitled "The situation of Bhutanese refugees" and "The situation of internally displaced persons in Turkey" respectively.

48. Mr. FAN Guoxiang said that, as a matter of principle, he was not in favour of "name-calling". He supported Mrs. Warzazi's proposal.

49. Mr. EIDE, supported by Mr. JOINET, proposed that consideration of the draft resolution should be deferred until the following day to allow time for consultations.

50. It was so agreed.

Draft resolution on the situation of human rights in Indonesia
(E/CN.4/Sub.2/1999/L.19)

51. Mr. EIDE, introducing the draft resolution on behalf of its sponsors, said that, following long and fruitful consultations with representatives of the Government of Indonesia, a draft Chairman's statement had been prepared which, if adopted, would replace the draft resolution.

52. Mr. JOINET said that, although he had not sponsored the draft resolution, he was pleased to be able to support the Chairman's statement, which highlighted the trend towards full legal and practical separation of the national civilian police and the armed forces in Indonesia.

53. Mr. PINHEIRO said that the consultations with the Government of Indonesia had been a commendable initiative. Contrary to the recent statement by an observer for a Member State, the Sub-Commission did not "abuse its own properly circumscribed powers" but invariably sought to engage in dialogue with the Member States.

54. Mrs. WARZAZI said she welcomed the dialogue that had resulted in the draft Chairman's statement, which would, she hoped, be adopted by consensus.

55. The CHAIRMAN read out the following draft statement:

"The Sub-Commission on the Promotion and Protection of Human Rights is encouraged by the significant improvements taking place in Indonesia towards protection of human rights. It has taken note of the lifting of restrictions on political parties and the holding in 1999 of the first free elections in 45 years in the context of a process of democratization, including liberalization of the press and an active civil society. The Sub-Commission also welcomes the submission of the new draft law on human rights and the new draft revision of the law relating to the judiciary as well as the commitment of the Government to securing the independence of the judiciary, possibly by constitutional amendment, decisions of the People's Consultative Assembly, and/or by statute. The Sub-Commission further welcomes the legal and practical separation of the national civilian police and the armed forces in April 1999 and further developments to separate them completely in two years. The five-year National Action Plan on Human Rights commits the Government to the ratification of eight treaties: the Government has thus already ratified the core International Labour Organization Conventions, the Convention against Torture and the Convention on the Elimination of Racial Discrimination.

The Sub-Commission remains concerned, however, at the persistent reports of human rights violations including extrajudicial killings and ill-treatment, as well as continued serious violence and abuses, for example in Aceh and Ambon. The Government has taken various actions to deal with some of these concerns, for example by promoting dialogue and reconciliation in various regions including Irian Jaya; releasing a substantial number of political prisoners and prisoners of conscience from different parts of the country; and bringing to justice or dismissing some police officers and soldiers. In its statement to the

Sub-Commission, the Government also committed itself to continuing to bring to justice those who violate human rights, humanitarian law and criminal law so as to combat impunity.

The Sub-Commission notes that, in April 1999, the Government announced at the fifty-fifth session of the Commission on Human Rights that the Government has decided to ratify both International Covenants on Human Rights during the year 2000. It is hoped that the Government will then begin to consider ratification of the first Optional Protocol to the International Covenant on Civil and Political Rights.

The Sub-Commission notes with satisfaction that the Government of Indonesia has already received visits from the thematic mechanisms of the Commission on Human Rights on torture (1991), extrajudicial executions (1995), violence against women (1998) and arbitrary detention (1999). The Sub-Commission is pleased by continuing efforts to implement the recommendations of the United Nations Working Group on Arbitrary Detention and the United Nations Special Rapporteur on violence against women. It further encourages the Government of Indonesia to continue its cooperation with the thematic mechanisms of the Commission, for example by inviting for follow-up visits the other two rapporteurs, and welcomes discussions towards inviting the Special Rapporteur on independence of judges and lawyers, in the context of the planned reform of the judicial system.

In conclusion, the Sub-Commission expresses its thanks for the cooperation of the Government of Indonesia and looks forward to further dialogue and discussion."

56. The draft Chairman's statement was adopted.

57. The draft resolution on the situation of human rights in Indonesia (E/CN.4/Sub.2/1999/L.19) was withdrawn by its sponsors.

58. Mr. WIRAJUDA (Observer for Indonesia) said that his Government shared the concern expressed by the members of the Sub-Commission regarding human rights violations everywhere in the world and had never claimed that the human rights situation in Indonesia was perfect. However, it underlined the importance of having effective ways and means to redress violations.

59. Although his Government had to deal with enormous problems resulting from the economic and political crisis, it had made substantial progress in the promotion and protection of human rights within a relatively short period of time. It had introduced fundamental political, economic and legal reforms, allowing democracy, a free press and a culture of respect for human rights to flourish in the country.

60. He stressed, however, that promoting the human rights and well-being of over 210 million Indonesians, of enormous ethnic, cultural, linguistic and religious diversity and spread over more than 17,000 islands, was no easy task. Nevertheless, he believed that, assisted by the basic policy lines adopted, the national programme of action in place and the more democratic

environment resulting from the general elections, the new Government to be installed in November 1999 would carry the current endeavours still further.

61. He would convey the Chairman's statement that had just been adopted to the authorities in Jakarta and, in that spirit, his delegation would continue to pursue a constructive dialogue and to cooperate with the Sub-Commission.

The situation of human rights in Mexico

62. Mrs. DAES thanked all the members of the Sub-Commission for their assistance in reaching an agreement with the delegation of Mexico on a draft Chairman's statement on the human rights situation in that country. Once again, a spirit of cooperation, non-confrontation and dialogue had prevailed. She also thanked the representatives of the Mexican Government and of indigenous groups, particularly those from the State of Chiapas, for their constructive cooperation.

63. Speaking as Chairperson of the Working Group on Indigenous Populations, she expressed her empathy with the sufferings of the indigenous communities of the States of Chiapas, Guerrero and Oaxaca but stressed that their disputes with the Mexican Government could be more effectively addressed through peaceful negotiations, if necessary with United Nations assistance. She recommended that the San Andrés agreements between the Mexican Government and the Zapatista National Liberation Army should be implemented.

64. She expressed the hope that the draft Chairman's statement would be adopted by consensus and suggested that the observer for Mexico should be given the opportunity to make a statement before its adoption.

65. Mr. de ICAZA (Observer for Mexico) said that he would prefer to make his statement announcing the commitments of the Mexican authorities after the Chairman's statement had been adopted.

66. Mr. BOSSUYT said that the Chairman could not make a statement until he had ascertained that all members of the Sub-Commission were in agreement. As that seemed to be the case, he proposed that the Chairman should read out what was, in his view, a "statement" and not a "draft statement".

67. Mr. JOINET said that despite having some reservations regarding the text of the draft statement, he would not break the consensus.

68. Mr. GUISSÉ said that, since a Chairman's statement could not subsequently be challenged, work on the draft text should be suspended until every member had the document in his or her working language.

69. Mr. ALFONSO MARTÍNEZ said that Chairman's statements were reference texts reflecting the view of the Sub-Commission in its entirety.

70. Mrs. DAES said that the purpose of the proceedings was to encourage Governments to promote and protect human rights and to cooperate with the Sub-Commission. The Chairman should read out the draft text, after which the observer for Mexico would make a statement setting forth his Government's commitments.

71. Mr. GUISSÉ said that, in a spirit of compromise, he would agree to the procedure proposed by Mrs. Daes.

72. The CHAIRMAN read out the following draft statement:

"The Sub-Commission on the Promotion and Protection of Human Rights welcomes the positive developments which have taken place within the country of Mexico since last year. These developments have included the ratification by the Government of Mexico of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 12 November 1998, as well as the ratification of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women on 3 December 1998. The Sub-Commission is also particularly pleased that the Government of Mexico has introduced the National Programme for the Defence and Promotion of Human Rights on 21 December last year. These initiatives by the Government of Mexico may help to ensure a situation in which human rights are increasingly respected and observed. In particular, the Sub-Commission welcomes the provisions made within the National Programme which establish special social programmes relating to the promotion of human rights education, securing the human rights of women and children, and the alleviation of poverty. The Sub-Commission also notes that, on 6 June 1999, the Federal Congress of Mexico approved a constitutional reform providing for the complete autonomy of the National Commission of Human Rights.

The Sub-Commission, however, wishes to express its continuing concern over the human rights situation in Mexico, and notes persistent allegations of torture, extrajudicial execution, and 'disappearances', as well as violations perpetrated against indigenous communities within that country. The Sub-Commission also notes the concluding observations of the Human Rights Committee from 27 July 1999 which express concern over the increase in actions by the armed forces within society, particularly in the States of Chiapas, Guerrero and Oaxaca. The Sub-Commission requests the Government of Mexico to take urgently further steps to implement the National Programme for the Defence and Promotion of Human Rights, as well as to investigate all human rights violations, committed by both State and non-State forces, and to take effective and concrete steps to bring the perpetrators to justice in accordance with international human rights standards.

The Sub-Commission also takes note of the invitation addressed to the Chairperson of the Working Group on Indigenous Populations, Mrs. Erica-Irene Daes, by the 'Instituto Nacional Indigenista'. In this respect the Sub-Commission understands that the Office of the High Commissioner for Human Rights has been contacted regarding the financial implications of such a visit."

73. The draft Chairman's statement was adopted.

74. Mr. de ICAZA (Observer for Mexico) said that his delegation had taken note of the Chairman's statement on the situation of human rights in Mexico, which welcomed the positive developments that had taken place in his country

since the previous year, and in which the Sub-Commission found that the initiatives taken by his Government helped to ensure a situation in which human rights were increasingly respected and observed.

75. Since the adoption of Sub-Commission resolution 1998/4, on developments in the situation in Mexico, his Government had taken some major steps to improve the situation of human rights, such as the establishment of the National Programme for the Defence and Promotion of Human Rights, the granting of full autonomy to the National Commission of Human Rights, and the investigation, trial and punishment of human rights violators.

76. His Government shared the Sub-Commission's concerns regarding allegations of violations of human rights and he assured the Sub-Commission that it was endeavouring to investigate all complaints and to punish those responsible for such violations. It was determined to create a culture of respect for human rights in Mexico and to adopt every measure to do away with impunity.

77. His Government continued to show its firm political will to resolve the conflict in Chiapas through peace negotiations. The conflict was not one between the indigenous populations and the Government of Chiapas. There was no conflict of that type in Mexico.

78. With respect to the concluding observations adopted by the Human Rights Committee at its previous session concerning the periodic report of Mexico, his Government was preparing its observations, which would be taken duly into account in accordance with the International Covenant on Civil and Political Rights and with the Committee's own rules of procedure. His Government fully agreed with the Committee that, generally speaking, order should be maintained within the country through the civil security forces. Nevertheless, there were occasions and places in which such forces were not sufficient to maintain order, protect citizens and dissuade from violence, rendering the presence of armed forces necessary to afford temporary assistance to the civil authorities.

79. His Government was doing everything in its power to implement the National Programme for the Defence and Promotion of Human Rights. To that end, it was fully cooperating with international and regional human rights mechanisms. During the past year, it had invited special rapporteurs of the Commission on Human Rights to visit Mexico; it had accepted the mandatory jurisdiction of the Inter-American Court of Human Rights, and had ratified additional international human rights instruments. It would continue its policy of full cooperation with the international community in general and with the Sub-Commission in particular.

80. In 1998, the Mexican Minister for Foreign Affairs had invited the United Nations High Commissioner for Human Rights to visit Mexico in order to continue the constructive dialogue initiated regarding possible technical cooperation. The High Commissioner had accepted the invitation, and, having regard to her other travel commitments, had proposed that the visit should take place in the autumn of 1999. He was happy to announce that his Government had accepted the dates suggested by the High Commissioner, and would be glad to receive her from 23 to 27 November 1999.

81. In addition, his Government intended to invite, at an appropriate date in 2000, the Special Rapporteurs on the independence of judges and lawyers and on violence against women, its causes and consequences, to visit Mexico. It hoped that those invitations would be accepted. Moreover, the National Institute for Indigenous Affairs had invited the Chairperson of the Working Group on Indigenous Populations to visit Mexico. His Government would accord her every facility to ensure that the visit was a success.

82. Lastly, he wished to thank the members of the Sub-Commission for the constructive dialogue that had taken place and the appropriate manner in which its concerns had been dealt with.

83. Mr. JOINET said that the Mexican Government's decision to invite the Special Rapporteur on the independence of judges and lawyers to visit Mexico indirectly met his concern that the question of impunity was not adequately addressed in the Chairman's statement. He requested the Secretariat to ensure that copies of the Chairman's statement and of the statement made by the observer for Mexico were sent to the two Special Rapporteurs.

84. Mr. RAMISHVILI said that he had not wished to interrupt the proceedings with points of order. However, Chairman's statements could not be read out until there was a consensus as to the text. He trusted that no further infringements of that procedure would take place at the current session or at future sessions.

85. The CHAIRMAN said he had confirmed that there was consensus as to the text before reading it out.

86. Mr. BENGOA said that he would have preferred the Chairman's statement to contain some reference to follow-up action; however, it was implicitly understood that developments in the situation would have to be studied by the Sub-Commission at its next session.

87. Mr. EIDE said that four Chairman's statements had been adopted at the current session. That was a very positive development, as such statements were the outcome of a cooperative effort addressing very specific points, and were thus potentially far more useful than resolutions. He wished to thank all those involved in the process of negotiation, particularly tne representatives of the Governments of Togo, Belarus, Indonesia and Mexico.

88. Mr. PINHEIRO said it should be stressed that the Sub-Commission had used its power to adopt country-specific resolutions with great restraint.

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO THE ELIMINATION OF RACIAL DISCRIMINATION:

(a) SITUATION OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES;

(b) XENOPHOBIA

(agenda item 3) (continued) (E/CN.4/Sub.2/1999/L.2 and 3)

Draft decision on the concept and practice of affirmative action (E/CN.4/Sub.2/1999/L.2)

89. Mrs. DAES said that she wished to become a sponsor of the draft decision.

90. Mr. FAN Guoxiang said that, in conducting his study, the Special Rapporteur should take account of the fact that the concept of affirmative action was understood and implemented differently in different parts of the world, and that the spirit in which it was implemented might or might not vary accordingly.

91. Mr. ALFONSO MARTÍNEZ proposed that, in order to bring the draft decision into line with the practice followed elsewhere by the Sub-Commission, the two references to the High Commissioner for Human Rights should be replaced by references to the Secretary-General.

92. It was so decided.

93. The draft decision, as orally amended, was adopted.

Draft resolution on the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (E/CN.4/Sub.2/1999/L.3)

94. Mr. ALFONSO MARTÍNEZ said that the words "racial discrimination, xenophobia" appeared to have been inadvertently omitted after the word "racism", in the second line of paragraph 15 of the draft resolution.

95. Mr. WEISSBRODT, introducing the draft resolution on behalf of its sponsors, said that the word "completed" should be deleted from the first line of the fifteenth preambular paragraph, so as to make it clear that work was continuing. The words "based on his working paper (E/CN.4/Sub.2/1998/5)" should be added at the end of subparagraph (a) of the same paragraph.

96. The text of the draft resolution perhaps reflected the combined contributions and suggestions of all members to a greater extent than any other submitted at the current session. It would seem, therefore, that it could be adopted unanimously.

97. Mr. YIMER and Mr. SORABJEE said that they wished to become sponsors of the draft resolution.

98. Mr. JOINET said that, in the fourteenth preambular paragraph of the French text the words "collaboration du [...] avec la ..." should be amended to read "coopération existante entre le [...] et la ...", so as to stress that the two bodies had equal status.

99. Mr. BOSSUYT proposed inserting an additional paragraph, following paragraph 14, to read: "requests Mr. Paulo Sérgio Pinheiro to participate, without financial implications, in the preparatory meeting of the World Conference as the representative of the Sub-Commission".

100. Mr. ALFONSO MARTÍNEZ said that there seemed to be no need to refer to the financial implications of Mr. Pinheiro's participation.

101. Mrs. WARZAZI said that the request should be directed not to Mr. Pinheiro but to the Secretary-General.

102. Mr. BOSSUYT then proposed the alternative wording "requests the Secretary-General to ensure the participation of Mr. Paulo Sérgio Pinheiro in the preparatory meeting of the World Conference as the representative of the Sub-Commission".

103. Mr. Bossuyt's revised wording for his proposed additional paragraph was accepted by the sponsors.

104. The draft resolution, as orally corrected and revised, was adopted unanimously.

The meeting rose at 1 p.m.